

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

HON. ELAINE L. CHAO,
SECRETARY, UNITED STATES
DEPARTMENT OF LABOR,
Plaintiff,

v.

ALLIED PILOTS ASSOCIATION,
Defendant.

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CIVIL NO. 4-05-CV-338-Y

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Plaintiff, the Honorable Elaine L. Chao, Secretary, United States Department of Labor (Chao), by and through the United States Attorney for the Northern District of Texas and the undersigned Assistant United States Attorney, hereby files this Motion for Summary Judgment, and respectfully shows the Court the following:

I.

COMPLIANCE WITH LOCAL RULE 56.3(A)

The matters required by Local Rule 56.3(a) of the Local Civil Rules for the Northern District of Texas are set forth in the United States' Brief In Support of Motion for Summary Judgment, which is being filed on this same date.

II.

MOTION

Chao moves this Court for summary judgment in her favor in the above-referenced case on the grounds that there are no genuine issues of material fact which would preclude the award of summary judgment. Specifically, Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (“LMRDA” or “the Act”) requires unions subject to its provisions to conduct elections of officer positions by secret ballot. 29 U.S.C. § 481(a). “Secret ballot” is defined by the LMRDA as “the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed.” 29 U.S.C. § 402(k). However, the undisputed evidence in this case shows that the remote Internet voting system used by the Defendant, Allied Pilot’s Association (“APA”), in its 2004 national officer election and run-off election (“2004 elections”), was designed in such a manner that APA members could be identified with their votes. As set forth in the accompanying brief, this violation, alone, is sufficient to establish a prima facie presumption that the outcome of the APA’s 2004 elections may have been affected, and APA can produce no tangible evidence to defeat this presumption. Thus, given that a violation of section 401 has occurred which “may have affected the outcome of an election,” this Court “shall declare the election, if any, to be void and direct the conduct of a new election under supervision of the Secretary.” 29 U.S.C. § 481.

III.

CONCLUSION

In light of the above, Chao respectfully moves this Court to grant summary judgment in her favor on the grounds that the remote Internet voting system used by the APA violated Title IV of the LMRDA. Chao further moves that this Court to order a re-run of the APA national officer election under the supervision of the DOL.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of May, 2006 I electronically filed the forgoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a Notice of Electronic Filing to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means:

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